



2019011232

DOUGLAS J. JOHNSON
RECORDER - DEKALB COUNTY, IL

RECORDED: 12/5/2019 09:05 AM
REC FEE: 75.00

STATE OF ILLINOIS)
COUNTY OF DEKALB) SS
CITY OF DEKALB)

PAGES: 7

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CERTIFICATION

I, **RUTH A. SCOTT**, am the duly qualified and appointed Executive Assistant of the City of DeKalb, DeKalb County, Illinois, as authorized by Local Ordinance 2019-059, and as such Executive Assistant, I maintain and am safe-keeper of the records and files of the Mayor and City Council of said City.

I do hereby certify that the attached hereto is a true and correct copy of:

ORDINANCE 2019-081

AUTHORIZING A ZONING MAP AMENDMENT FROM THE "LI" LIGHT INDUSTRIAL DISTRICT TO "PD-I" PLANNED DEVELOPMENT – INDUSTRIAL DISTRICT TO ALLOW FOR A CANNABIS BUSINESS ESTABLISHMENT (MEDICAL CANNABIS DISPENSARY) AT 700 PEACE ROAD (BQ ENTERPRISES, INC.).

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, on the 25th day of November 2019. The original document will be kept on file at the City of DeKalb Municipal Building.

WITNESS my hand and the official seal of said City this 4th day of December 2019.

RUTH A. SCOTT, Executive Assistant

Prepared by and Return to:

City of DeKalb
City Manager's Office
Attention: Ruth A. Scott
200 S. Fourth Street
DeKalb, Illinois 60115



AUTHORIZING A ZONING MAP AMENDMENT FROM THE “LI” LIGHT INDUSTRIAL DISTRICT TO “PD-I” PLANNED DEVELOPMENT – INDUSTRIAL DISTRICT TO ALLOW FOR A CANNABIS BUSINESS ESTABLISHMENT (MEDICAL CANNABIS DISPENSARY) AT 700 PEACE ROAD (BQ ENTERPRISES, INC.).

WHEREAS, the City of DeKalb (the “City”) is a home rule municipality with the power and authority conferred upon it by the Illinois Constitution; and

WHEREAS, BQ Enterprises, Inc., (the “Petitioner”) the owner of the property commonly known as 700 Peace Road, Unit B, DeKalb, Illinois (herein referred to as “Subject Property”), has petitioned the City for approval of a zoning map amendment from the “LI” Light Industrial District to the “PD-I” Planned Development – Industrial District, to allow a medical cannabis dispensary in an approximately 3,600-square-foot tenant space in a multi-tenant building on the Subject Property; and

WHEREAS, pursuant to proper legal notice, a public hearing was conducted by the City’s Planning and Zoning Commission on October 23, 2019; and

WHEREAS, the City and Petitioner have conducted all required public hearings before the City’s Planning and Zoning Commission for the rezoning for the Subject Property, and have otherwise satisfied all conditions precedent to the adoption of this Ordinance; and

WHEREAS, the City Council has reviewed and adopts the following findings of fact of the City’s Planning and Zoning Commission, finds that the proposed rezoning is in conformance with the applicable zoning factors contained therein, and finds that approval of the rezoning for the Subject Property is in the public interest and promotes the public health, safety, and welfare;

STANDARDS OF REZONING

- 1. The proposed rezoning conforms to the Comprehensive Plan, or conditions have changed to warrant the need for different types of land uses in that area. The proposed rezoning is appropriate considering the length of time the property has been vacant, as originally zoned, and taking into account the surrounding areas trend in development.**

The 2005 Comprehensive Plan recommends the subject site for commercial use. Staff believes that the proposed medical cannabis dispensary meets the intent of the City’s Comprehensive Plan. The proposed dispensary will be locating in a building with another business and will have adequate parking and situated at a highly visible intersection.

2. The proposed rezoning conforms to the intent and purpose of the Unified Development Ordinance.

The proposed use and zoning of Planned Development – Industrial will comply with the current regulations of the Unified Development Ordinance (the “UDO”) except for the two exemptions related to the minimum lot size for a Planned Development and the type of building medical cannabis dispensaries can locate in. The exceptions to the UDO are justified based upon the limited areas where medical cannabis dispensaries can locate and the precautions that will be taken regarding building security and safety. In addition, an amendment to the UDO has been proposed by the City to remove the requirement that dispensaries be in stand-alone buildings. The Planning and Zoning Commission has recommended approval of the amendment on October 9, 2019 and the City Council will consider the change at their October 28, 2019 meeting.

3. The proposed rezoning will not have a significantly detrimental effect on the long-range development of adjacent properties or adjacent land uses.

Much of the surrounding area is already developed. The proposed use will be locating in building that has one other business. There is a multi-tenant commercial building to the north and south of the subject site, which contain a variety of commercial uses and will be compatible with the dispensary use. The locations where a medical cannabis dispensary can locate and meet all the setback requirements is very limited. The proposed rezoning should not have a detrimental effect on the adjacent properties or land uses.

4. The proposed rezoning constitutes an expansion of an existing zoning district that, due to the lack of undeveloped land, can no longer meet the demand for the intended land uses.

The subject property is currently zoned “LI” Industrial District. Rezoning the property to “PD-I” Planned Development – Industrial will allow for a use that has limited locations where it can be established.

5. Adequate public facilities and services exist or can be provided.

Adequate public services are already provided to the subject site.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL of the City of DeKalb, Illinois as follows:

SECTION 1: The recitals set forth in the preamble are hereby incorporated herein by reference and made a part of this Ordinance.

SECTION 2: This Ordinance is limited and restricted to the Subject Property legally described as follows:

UNIT 101 OF ASPEN BUSINESS CONDOMINIUM PHASE TWO, A CONDOMINIUM OF UNIT 1 OF ASPEN BUSINESS CONDOMINIUMS, ON LOT 2 IN ASPEN RIDGE SUBDIVISION, IN THE CITY OF DEKALB, DEKALB COUNTY, ILLINOIS

The aforementioned legal description is comprised of Parcel Identification Number (PIN) 08-24-128-025 and commonly known as 700 Peace Road, Unit B, DeKalb, IL 60115.

SECTION 3: The City's corporate authorities grant a zoning map amendment from "LI" Light Industrial District to "PD-I" Planned Development-Industrial District to permit a cannabis business establishment (medical cannabis dispensary) in the tenant space as shown on Exhibit A and an exception to the UDO regarding minimum lot size for a Planned Development for the Subject Property, subject to the conditions listed in Section 4 of this Ordinance.

SECTION 4: The approval herein is granted subject to the following conditions:

1. The applicant shall obtain a state-issued medical cannabis dispensary license for the subject site within one year of approval of the Ordinance granting the rezoning.
2. The applicant shall complete all required build-out and tenant improvements within six months after issuance of the state-issued medical cannabis dispensary license (and prior to opening of the facility).
3. The applicant shall comply with reasonable restrictions related to the building and premises security and surveillance as described in the UDO and have an approved security plan/agreement with the Police Department prior to a final certificate of occupancy.
4. Setbacks, building lines, floor area ratios, building dimension limitations, height restrictions and other similar lot/building size/shape restrictions and regulations shall meet those standards as set forth in the "LI" Light Industrial District and the UDO except as provided below:
 - a. Article 5.13.06 – Minimum Site Size for a Planned Development
The minimum site size for a Planned Development shall be reduced from 2 acres to .08 acres.
5. Permitted and special uses shall be those as listed in the "LI" Light Industrial District.
6. Prohibited Uses:
 - a. Adult oriented uses; adult bookstores or other establishment displaying, leasing, trading, selling pornographic materials as defined in the UDO, whether as a principal use or accessory to an allowed principal use;

- b. Animal boarding;
- c. "Second-hand", resale or consignment store;
- d. Fire, bankruptcy sale, wholesale, overstock auction house or their equivalent;
- e. Massage parlor;
- f. Dollar stores, discount department stores, or wholesale establishments;
- g. Currency exchange, money wiring, check cashing facility or equivalent;
- h. Auto title loan or post-dated check or payday loan facility or equivalent, unless associated with and incorporating the full-services of a federally-insured bank, credit union or savings and loan;
- i. Bar, tavern, package liquor store, dance hall or any other facility;
- j. Community residences;
- k. Tobacco, pipe, cigar or cigarette sales, retail tobacco sales, "hookah bar" or other establishment that permits the indoor consumption of any product regulated under Chapter 64 of the City Code;
- l. Group homes;
- m. Parking lots, as a principal use;
- n. Pawn shops;
- o. Cemeteries and mausoleums;
- p. Funeral homes and mortuaries;
- q. Rooming houses or lodging houses;
- r. Automobile or motor vehicle/recreational vehicle/implement repair, service, sales, rentals or maintenance;
- s. Contractor offices associated with onsite storage of vehicles, supplies or equipment, building material or equipment sales, building or equipment service or maintenance offices, or the equivalent;
- t. Residential uses;
- u. Tattoo, body art or body modification related uses;

- v. Car washes, drive-thrus;
- w. Outdoor, drive-thru or standalone automatic teller machines (except for ATMs wholly concealed within the primary structure on the Property and accessible only from within the structure).
- x. Any use not expressly identified as a Permitted Use.


SECTION 5: All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.

SECTION 6: Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.


SECTION 7: That all provisions of the Unified Development Ordinance shall remain in full force and effect and this Ordinance shall take effect upon its passage and approval according to Law. The City Clerk or designee shall record a copy of this Ordinance included herein after execution of this Ordinance.

ADOPTED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 25th day of November 2019 and approved by me as Mayor on the same day. Passed on First Reading by a 6-0-2 roll call vote. Aye: Morris, Smith, Perkins, McAdams, Faivre, Mayor Smith. Nay: None. Absent: Finucane, Verbic. Second Reading waived by a 7-0-1 roll call vote. Aye: Morris, Finucane, Smith, Perkins, McAdams, Faivre, Mayor Smith. Nay: None. Absent: Verbic.

ATTEST:



Ruth A. Scott

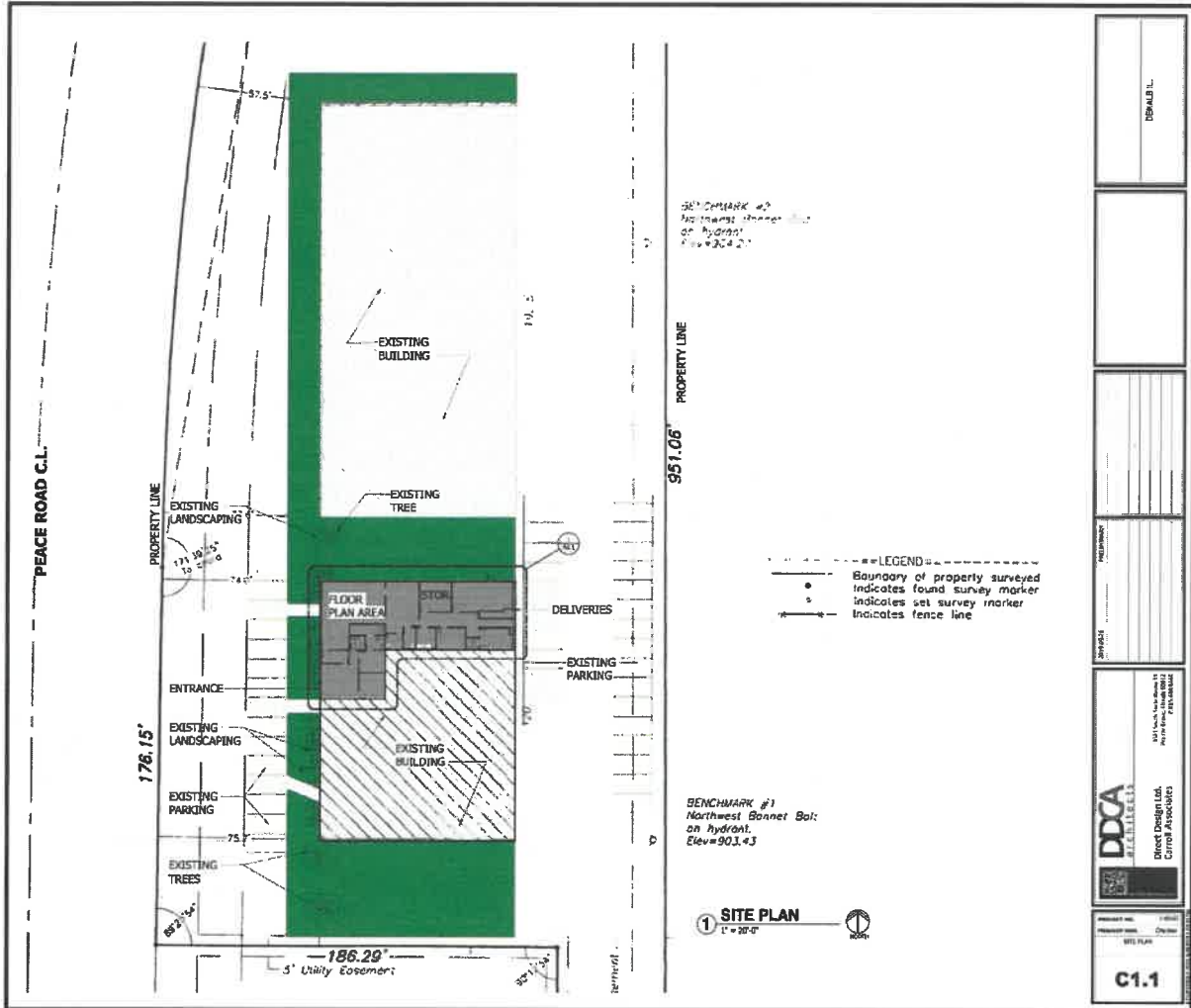


JERRY SMITH, Mayor



EXHIBIT A

BUILDING/SITE PLAN 700 PEACE RD. DEKALB, IL



TIMM & GARFINKEL, LLC

1125
407 CONGRESS PARKWAY
SUITE E
CRYSTAL LAKE, IL 60014
(P) 815.477.7476
(F) 815.333.0480
WWW.LTGLEGAL.COM

CRAIG KRANDEL
(D) 815.477.7476
CKRANDEL@LTGLEGAL.COM

October 24, 2019

Mayor Jerry Smith and City Council Members
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115

**Re: Application of BQ Enterprises, Inc. for Map Amendment and Re-Zoning
Our File: 19-357**

Dear Mayor Smith and City Council Members:

On October 23, 2019 the City of DeKalb Planning and Zoning Commission unanimously approved BQ Enterprises, Inc.'s request for approval of rezoning to allow for a medical cannabis dispensary as shown on the site plan made part of the zoning application for property located at 700 Peace Road DeKalb, IL 60115 (PIN 08-24-128-025).

BQ Enterprises, Inc. respectfully requests that the City Council waive the second reading requirement in this matter at the November 25th City Council meeting and approve the rezoning request to PD- I on first reading.

Please feel free to contact me or Mitch Zaveduk with any further questions. Thank you in advance for your consideration of this matter.

Sincerely,

TIMM & GARFINKEL, LLC

By: 

Craig S. Krandel